

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MCDavid O. OYEKWE,

Plaintiff,

v.

FEDERAL EXPRESS CORPORATION,

Defendant.

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Civil Action No. **3:21-CV-1075-L-BT**

ORDER

On May 4, 2022, the Findings, Conclusions and Recommendation of the United States Magistrate Judge (Doc. 60) (“Report”) was entered, recommending that the court: (1) grant Federal Express Corporation’s Motion to Dismiss (Doc. 50) and dismiss with prejudice, pursuant to Federal Rules of Civil Procedure 37(b) and 41(b), Plaintiff’s remaining claims in Counts One and Two for racial discrimination and retaliation under state and federal law as a result of his willful failure to participate in discovery and comply with court orders; and (2) deny Plaintiff’s Motions for Default Judgment (Docs. 53, 57). The magistrate judge also notes that, while Plaintiff is proceeding pro se and *in forma pauperis*, he is no stranger to the legal system in that he has been labeled a vexatious litigant in other actions filed by him and warned against continuing to pursue frivolous and malicious lawsuits.

On May 4 and 9, 2022, Plaintiff filed an “Appeal to Motion to Dismiss & Motion for Default Judgment & Motion to Recuse [Magistrate Judge] Rebecca Rutherford” and supporting brief, which the court **construes** as objections to the Report. Docs. 61, 62. Thereafter, Defendant filed a response in opposition to the objections on May 18, 2022. In support of his objections to the Report, Plaintiff contends as follows:

1. MAGISTRATE RUTHERFORD NEGLECTED TO DISCLOSE THE 7 HOUR DEPOSITION DESPITE A PAINFUL HOSPITALIZATION ISSUE THE SAME DAY, THE PLAINTIFF CUT SHORT HIS EMERGENCY VISIT FOR THE DEFENDENTS' MARCH 2022 DEPOSITION.
2. MAGISTRATE RUTHERFORD NEVER ORDERED A JOINT REPORT OR CONFERENCE FOR THE DEFENDANT TO CLARIFY THEIR FALSE DISCOVERY ACCUSATIONS DUE TO RACIAL BIAS.
3. PLAINTIFF PROVIDED ALL DISCOVERY OR MULTIPLE OCCASIONS AND UPDATES DISCOVERY TO DANIEL WEEKLY IF NOT MONTHLY.
4. MAGISTRATE RUTHERFORD IS NEGLECTED TO MENTION I FILED MULTIPLE REQUESTS FOR COUNSEL, DESPITE MY QUALIFICATIONS BE PROVIDED ONE. RACIAL BIAS IS BEING EXERCISED TO CLAIM A BLACK NON-ATTORNEY BE HELD TO A QUALIFIED ATTORNEY STANDARDS WHEN DENIED A FAIR OR TRANSPARENT PROCESS DUE TO RACIAL BIAS.
5. MAGISTRATE REBECCA RUTHERFORDS ACTIONS DISPLAY A PATTERN OF IGNORING ONE AND BELIEVE EVERYTHING OF THE OTHER WITH NO PROOF OR EVIDENCE TO SUPPORT THE ACCUSATIONS DUE TO SIMILAR ETHNICITY. MEANWHILE THE BLACK PLAINTIFFS' DOCUMENTATION IS IGNORED DESPITE NO ATTORNEY LICENSE.
6. DESPITE 3-RECORDED CONFESSIONS & MULTIPLE DELAYS BY DEFENDANT, PLAINTIFF HAS BEEN SUBJECTED TO RACIAL BIAS OF MAGISTRATE. https://www.youtube.com/watch?v=9_ruK6mA0kE&t=27s
7. FEDERAL EXPRESS CORPORATION Counsel was clearly untruthful in provided discovery.
8. PROVIDED EVERYTHING I HAVE. I AM NOT AM A TRAINED LAWYER, IVE BEEN DENIED REQUESTED COUNCIL.
9. I qualify for legal aid and public assistance but not a court appointed attorney.
10. THE DEFENDANT CONFESSED 11/4/2019, 03/26/2020, AND ON RECORDING 3/27/2020 TO DISCRIMINATION. EVEN WARNING OF RETAILIATION IN WRITING.
11. Daniel French continues to be dishonest to the court with no email or proof discovery provided to the plaintiff now is resorting to false witness testimony of people I haven't met or spoke to before.
12. Exhibits previously provided prove race is the unwritten rule of FedEx. Such as A CAUASIAN Lenore U. captain training despite less tenure. More safety violations and etc. Her race saved her from any (HIPPA requests) and preferred captain training despite hitting a parked gas truck. She was only fired for telling Plaintiff McDavid Oyekwe about it captain training he was discriminated again from.
13. Daniel French admits to the numerous complaints beyond the Plaintiff McDavid Oyekwe of Rick Erik Milgans & Brandon Grannon but untruthful about the number of internal IIEO form submitted to Human Resources.

14. Daniel French committed perjury lying despite; Julie Hughes proved confession admits to the harassment and discrimination of Erik Rick Miglans who is a prolific racist internally with FedEx with complaints. She directed me to Human Resources.

15. Witnesses highlighted for deposition of the Plaintiff proof Erik Rick Miglans was not trained not prepared to make uneducated assertions of the Plaintiff McDavid Oyekwe. Erik Rick Miglans used his race to harass the Plaintiff with Alonzo Wiley as his cop out but perjury proves it was mainly Miglans efforts behind the lies according to the evidence.

16. The **defendant** is in civil contempt in that:
- a. Knowingly was untruthful to the court with created false discovery.
 - b. With the purpose mislead the plaintiff and the court.
 - c. This illustrates noncompliance by the defendant
 - d. With repeat privilege granted to defendant due to race.

Pl.'s Obj. 1-2. Plaintiff, therefore, once again requests that Defendant be held in civil contempt and that a default judgment of \$1,000,000 in damages be entered in his favor.

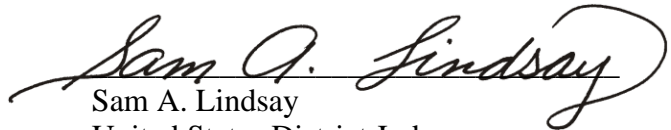
Plaintiff's objections are conclusory, unsupported, without merit, and fail to adequately address the bases for the magistrate judge's findings and conclusions. Moreover, while Plaintiff continues to contend that he has no legal training, and he takes issue with the Magistrate Judge Rutherford's prior rulings regarding discovery and his requests for appointment of counsel, he never appealed those rulings within the time allowed by the Federal Rules of Civil Procedure. As a result, he **waived** any such objections. Regardless, Plaintiff's disagreement with these rulings is not evidence of improper bias or racial discrimination as he suggests and thus does not support his request for Magistrate Judge Rutherford's to be removed from the case.

Further, the record more than adequately establishes that Plaintiff has engaged in a clear record of delay and contumacious conduct. As correctly noted by Defendant, the court also previously warned Plaintiff about continuing to file frivolous motions for default judgment and civil contempt. Instead of heeding this warning, he filed two more frivolous motions on March 22, 2022, and April 25, 2022, in which he against seeks a default judgment and civil contempt finding

against Defendant, and \$1,000,000 in damages (Docs. 53, 57). His current objections similarly include unsupported requests for default judgment, civil contempt, and damages of \$1,000,000 (Doc. 61).

After considering the motions, pleadings, the file, Report, and record in this case, and having conducted a de novo review of that section of the Report to which objection was made, the court determines that the magistrate judge's findings and conclusions are correct. The court, therefore, **accepts** them as those of the court, and **overrules** Plaintiff's objections (Docs. 61, 62). Accordingly, the court **grants** Federal Express Corporation's Motion to Dismiss (Doc. 50); **dismisses with prejudice**, pursuant to Federal Rules of Civil Procedure 37(b) and 41(b), this action and Plaintiff's remaining claims in Counts One and Two for racial discrimination and retaliation under state and federal law as a result of his willful failure to participate in discovery and comply with court orders; and **denies** Plaintiff's Motions for Default Judgment and Civil Contempt (Docs. 53, 57, 61).

It is so ordered this 20th day of May, 2022.


Sam A. Lindsay
United States District Judge